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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8 Ronald Laverne Halstead, ) No. CV 11-225-TUC-FRZ (JJM)  
9 Petitioner, ) **ORDER**  
10 vs. )  
11 )  
12 Lionel Craig Apker, )  
13 Respondent. )  
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15 Pending before the Court is a Report and Recommendation issued by United States  
16 Magistrate Judge Marshall that recommends denying Petitioner's habeas petition filed  
17 pursuant to 28 U.S.C. §2241. As thoroughly explained by Magistrate Judge Marshall, the  
18 petition must be denied as Petitioner fails to demonstrate any viable grounds entitling him  
19 to habeas relief.<sup>1</sup> As Petitioner's objections do not undermine the analysis and proper  
20 conclusions reached by Magistrate Judge Marshall, Petitioner's objections are rejected and  
21 the Report and Recommendation is adopted.

22 To the extent a certificate of appealability must issue before Petitioner can appeal,<sup>2</sup> it is  
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24 <sup>1</sup>The Court reviews de novo the objected-to portions of the Report and Recommendation.  
25 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court reviews for clear error the unobjected-to  
26 portions of the Report and Recommendation. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739  
(7th Cir. 1999); *see also Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

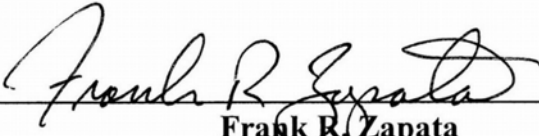
27 <sup>2</sup>Although Petitioner has brought his claims in a § 2241 petition, a certificate of appealability  
28 is required where a § 2241 petition attacks the petitioner's conviction or sentence. *See Porter v. Adams*, 244 F.3d 1006 (9th Cir. 2001).

1 denied. *See* 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b)(1). Federal Rule of Appellate  
2 Procedure 22(b) requires the district court that rendered a judgment denying the petition to  
3 "either issue a certificate of appealability or state why a certificate should not issue."  
4 Additionally, 28 U.S.C. §2253(c)(2) provides that a certificate may issue "only if the  
5 applicant has made a substantial showing of the denial of a constitutional right." In the  
6 certificate, the court must indicate which specific issues satisfy this showing. *See* 28 U.S.C.  
7 §2253(c)(3). A substantial showing is made when the resolution of an issue of appeal is  
8 debatable among reasonable jurists, if courts could resolve the issues differently, or if the  
9 issue deserves further proceedings. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).  
10 Upon review of the record in light of the standards for granting a certificate of appealability,  
11 the Court concludes that a certificate shall not issue as the resolution of the petition is not  
12 debatable among reasonable jurists and does not deserve further proceedings.

13 Accordingly, IT IS HEREBY ORDERED as follows:

- 14 (1) The Report and Recommendation (Doc. 14) is accepted and adopted.  
15 (2) Petitioner's §2241 habeas petition is denied; this case is dismissed with prejudice.  
16 (3) A Certificate of Appealability is denied and shall not issue.  
17 (4) The Clerk of the Court shall enter judgment accordingly and close the file in this matter.

18  
19 DATED this 12<sup>th</sup> day of January, 2012.

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24 Frank R. Zapata  
25 Senior United States District Judge  
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